

PERSONNEL

- CLASSIFIED PERSONNEL -

### **Harassment/Discrimination**

#### **DEFINITION**

Fayette County Public Schools desires to be a welcoming and inclusive environment for all students, staff, and visitors. It is the expectation of Fayette County Public Schools that all District schools and work places are safe and free from harassment and discrimination of all forms, including on the basis of race, color, and national origin. Students, staff, and visitors are expected to treat all individuals with respect during school, after school, and during school sponsored activities. Staff and students are encouraged to immediately report incidents of harassment/discrimination. The District will promptly investigate formal and informal complaints.

Harassment/Discrimination is when an individual is treated differently or unfairly based upon a protected class. Protected classes include race, color, national or ethnic origin, age, religion, sex (including sexual orientation or gender identity), genetic information, political affiliation, veteran status, disability, or limitations related to pregnancy, childbirth, or related medical conditions. . Harassment generally involves a pattern of behavior that causes an individual to feel unwelcome or uncomfortable, and is based upon an above mentioned protected class. Harassing conduct may take many forms, including verbal, written, or electronically sent statements. It also includes any conduct that may be physically threatening, harmful, or humiliating to an individual. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is severe or pervasive so as to interfere with or limit a student, employee, or visitor's ability to participate in or benefit from the services, activities, or opportunities offered by a District school.

#### **PROHIBITION**

Harassment/Discrimination on the basis of race, color, national origin, age, religion, sex (including sexual orientation or gender identity), genetic information, political affiliation, veteran status, or disability is prohibited at all times on school property and off school grounds during school-sponsored activities in both academic and nonacademic settings. Settings where harassment/discrimination are prohibited include but are not limited to school classrooms, school hallways, buses, field trips, recess, athletic competitions, and all District offices..

District staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.

#### **PROHIBITED CONDUCT**

Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy conduct and/or actions that could be considered a violation of this policy include but are not limited to:

1. Derogatory nicknames, slurs, intimidation, name calling, ridicule or mockery, insults, put downs, stereotyping, demeaning stories, jokes, or pictures relating to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;

**Harassment/Discrimination****PROHIBITED CONDUCT (CONTINUED)**

2. Treating someone differently, or less favorably based upon a protected class;
3. Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
4. Instances involving sexual violence;
5. Causing an employee to believe that he or she must submit to unwelcome sexual conduct in order to maintain employment or that a personnel decision will be based on whether or not the employee submits to unwelcome sexual conduct;
6. Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected classes;
7. Seeking to involve individuals with disabilities in antisocial, dangerous or criminal activity where they, because of disability, are unable to comprehend fully or consent to the activity; and
8. Destroying or damaging an individual's property based on any of the protected classes.

**DISCIPLINARY ACTION**

Employees who engage in harassment/discrimination of another employee or student based on any of the areas mentioned above shall be subject to disciplinary action, including but not limited to termination of employment. District staff who observe acts of harassment must intervene unless intervention would be dangerous. Staff and students are encouraged to immediately report incidents of harassment/discrimination. The district will promptly investigate formal and informal complaints. Failure by employees to report a suspected violation of this policy or to otherwise follow this policy and related procedures, or failure by the Superintendent or designee to report a suspected violation as directed or initiate an investigation of alleged harassment/discrimination by students or District employees, as required by this policy, to follow approved procedures, or to take corrective action shall be cause for disciplinary action.

**GUIDELINES**

Employees who believe they or any other employee, student, or visitor is being or has been subjected to harassment/discrimination shall, as soon as reasonably practicable, report it to their immediate supervisor. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report.

1. Informal complaints should be addressed with an individual's immediate supervisor; and
2. Formal complaints should be filed with one of the District Compliance Officers: (859) 381-4223. [lindsay.wright@fayette.kyschools.us](mailto:lindsay.wright@fayette.kyschools.us).

**Harassment/Discrimination****GUIDELINES (CONTINUED)**

The Superintendent shall provide for the following:

1. Investigation Procedures for Informal and Formal Complaint Resolution:
  - a. Informal Resolution:
    - Many problems may be solved by an informal meeting. A complainant must discuss their complaints in a prompt manner with their supervisor. Students and parents/guardians are encouraged to first discuss their concerns with their Principal;
    - The Complainant and Supervisor/Principal shall meet to discuss the complaint with the objective of arriving at a mutually satisfactory resolution. The Complainant should expect a decision at the end of the informal meeting(s), not later than five (5) days; and
    - If the matter is not resolved to the satisfaction of the Complainant, then within five (5) days of the informal decision, the Complainant may file a formal written complaint and submit it to the Compliance Officer.
  - b. Formal Resolution:
    - The Complainant may file a written complaint with the Compliance Officer. If an informal resolution has been sought, the written complaint shall be filed within five (5) days of the disposition at the informal level;
    - The investigation will include documentary, testimonial evidence, and statements the Compliance Officer deems necessary. It will also include impartial, confidential interviews of the involved parties; and
    - The Compliance Officer shall conduct a complete and fair investigation of the complaint in a timely manner. Should the investigation continue beyond 30 work days, the Compliance Officer will notify the Complainant of the anticipated date that the investigation will be completed.
  - c. The Compliance Officer will notify the parties that the legal standard used to determine whether harassment or discrimination exists is the preponderance of the evidence.
  - d. All investigators of harassment and discrimination complaints, including the Compliance Officer shall be impartial, and shall conduct adequate and reliable investigations.
2. A process to identify and employ methods to correct and prevent reoccurrence of the harassment/discrimination;
3. It is the expectation that harassment/discrimination investigations are impartial and non-biased, in nature;

**Harassment/Discrimination****GUIDELINES (CONTINUED)**

4. An offer of counseling or academic services to anyone subjected to harassment on the basis of race, color, or national origin and where appropriate, to the harasser;
5. The Superintendent or designee shall utilize immediate and appropriate measure to remedy harassment/discrimination if revealed during an investigation. Those steps may include but are not limited to: disciplinary action, separation of individuals, counseling services, providing appropriate training for the parties involved in the complaint, and defining future steps to further prevent the harassment/discrimination;
6. A process where the provisions of this policy are disseminated in writing annually to all staff and students; and
7. Annual training explaining prohibited behaviors.
8. The Superintendent or designee shall maintain a record of all harassment complaints, investigative activities, outcomes, and remedies for monitoring purposes:
9. All harassment and discrimination complaints, whether formal or informal, shall be shared with the Compliance Officer, no later than five (5) days after receipt. At the conclusion of an informal or formal complaint review, district Principal/Supervisors or designee shall notify the Compliance Officer, in writing, of the steps taken to review and address the complaint. The Compliance Officer will be the record keeper of all district harassment and discrimination complaints for annual maintenance and review; and
10. The Superintendent or designee shall utilize immediate and appropriate measure to remedy and prevent reoccurrence of harassment/discrimination if revealed during an investigation.
11. Those steps may include but are not limited to: disciplinary action, separation of individuals, counseling services, and/or appropriate training for the parties involved in the complaint.

If a supervisory staff member is an alleged party in the harassment/discrimination complaint, procedures shall also provide for addressing the complaint to a higher level of authority.

**RETALIATION PROHIBITED**

No one shall retaliate against an employee or student because s/he submits a grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy. Retaliatory behavior could result in disciplinary action.

**FAILURE TO REPORT SUSPECTED ABUSE**

Any employee who fails to report to the Principal or building supervisor suspected abuse of a student shall be subject to disciplinary action, including termination. This requirement does not alter or amend the reporting requirements of KRS 620.030 of any person to report abused children to the appropriate law enforcement agency.

**Harassment/Discrimination****OTHER CLAIMS**

When a complaint is received that does not appear to be covered by this policy, administrators shall review other policies that may govern the allegations, including but not limited to, 03.113, 03.1325 and/or 09.422.

**REFERENCES:**

KRS 158.156; KRS Chapter 344; 42 USC 2000e, Civil Rights Act of 1964, Title VII  
29 C.F.R. 1604.11, Equal Employment Opportunity Commission (EEOC) Regulations  
Implementing Title VII  
20 U.S.C. 1681, Education Amendments of 1972, Title IX  
Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other  
Students, or Third Parties, Title IX  
Oncale v. Sundowner Offshores Service, Inc. (U.S.S.Ct.)  
34 C.F.R. 106.1-106.71, U.S. Department of Education Office for Civil Rights Regulations  
Implementing Title IX  
Genetic Information Nondiscrimination Act of 2008  
Age Discrimination Act, 42 U.S.C. 6101-6107; 34 C.F.R. 110.25.  
42 U.S.C. 2000d, Et. Seq., Civil Rights Act of 1964, Title VI  
Dear Colleague Letter on Harassment and Bullying from Assistant Secretary for Civil  
Rights for the United States Department of Education (2010)  
42 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973  
42 USC 12131 et. seq., American with Disabilities Act of 1990 (Title II)  
Dear Colleague Letter on Harassment and Bullying from Assistant Secretary for Civil  
Rights for the United States Department of Education (2010)  
Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

**RELATED POLICIES:**

03.212  
03.2325  
03.26  
09.2211  
09.227  
09.422  
09.42811